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1.1 A child-rights approach

This practical guide emphasises that national authorities are bound by a child-rights and rights-based approach to the BIC. General Comment No 14 (2013) of the CRC Committee on the right of the child to have his or her best interests taken as a primary consideration provides authoritative interpretation and guidance for states parties on how to implement it. This includes procedural safeguards to guarantee their implementation (34).

> A child-rights approach as opposed to a state-centred approach: […] furthers the realisation of the rights of all children as set out in the Convention by developing the capacity of duty bearers to meet their obligations to respect, protect and fulfil rights (Art. 4) and the capacity of rights holders to claim their rights, guided at all times by the rights to non-discrimination (Art. 2), consideration of the best interests of the child (Art. 3, para. 1), life, survival and development (Art. 6), and respect for the views of the child (Art. 12). […] This child rights approach is holistic and places emphasis on supporting the strengths and resources of the child him/herself and all social systems of which the child is a part: family, school, community, institutions, religious and cultural systems (35)

In order to give primary consideration to the best interests of the child, holistic and child-centred processes must be implemented on an ongoing basis. They must take into account the child's individual and specific circumstances and needs, in all actions and decisions affecting the child, whether for the short-, medium- or long-term.

> The full application of the concept of the child's best interests requires the development of a rights-based approach, engaging all actors, to secure the holistic physical, psychological, moral and spiritual integrity of the child and promote his or her human dignity (36)

Giving primary consideration to the BIC should be part of an individual process undertaken for all children who have expressed their intent to apply for international protection, and applies to all international protection-related decisions and procedures.
Identifying the special procedural needs of children is also an obligation under the APD (recast) as well as conducting vulnerability assessments — as per the reception conditions directive (RCD recast) (37) This entails engaging all actors such as CP actors or service providers.
Ongoing BIAs should take into account the fact that the capacities (38) or special needs of the child will evolve over time and measures taken can be revised or adjusted accordingly, as opposed to making definitive or irreversible decisions.

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(33) In FR, the BIC assessment starts as soon as an unaccompanied child is detected, it does not depend on the existence/stages of the asylum procedure. BIC is assessed at the same time as age assessment and later by the determining authority.

(34) CRC Committee, General comment No 14 (2013) on the right of the child to have his or her best

interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC /C/GC/14, section V.

(35) UN Committee on Economic, Social and Cultural Rights, General Comment No 13: The Right to Education (Art. 13 of the Covenant), 8 December 1999, E/C.12/1999/10, para. 59

(36) CRC Committee, General comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC /C/GC/14, section I.A, paras. 4 and 5.

(37) See also Article 23(4) RCD (recast) — Rehabilitation services and support.

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